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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,678	10/15/2003	Walter Aichholzer	510.1088	7076
23280	7590	08/16/2005	EXAMINER	
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			TUROCY, DAVID P	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/685,678	AICHHOLZER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	David Turocy	1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## ***Office Action Summary***

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 27 June 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1 and 3-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1 and 3-11 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

### ***Response to Amendment***

1. The applicant's amendments, filed 6/27/2005, have been fully considered and reviewed by the examiner. The examiner notes the addition of new claims 10 and 11. Claims 1 and 3-11 are pending.

### ***Response to Arguments***

2. Applicant's arguments filed 6/27/2005 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant has argued that Kiriazis and Ellison is not combinable with Lahrmann, stating Kiriazis and Ellison teach of multi-layer paint films to be applied to end components in their dry state and Lahrmann teaches a multi-layer process in which each layer is applied to the end product. However, the examiner respectfully disagrees. Both Kiriazis and Lahrmann are concerned with a multi-layer coating on an automotive panel, and while the references apply the multi-layer coating in different manners, both reference are concerned with the relative thicknesses of the layers and the overall

thickness of the multi-layer film to be applied to the automotive panel, and therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kiriazis to use the relative coating thicknesses as suggested by Lahrmann to provide a desirable multilayered coating film because Lahrmann discloses a filler coating thickness of 35 microns followed by a basecoat thickness of 10 microns is known in the art to provide multi-layered coating on an automotive panel and therefore would reasonably be expected to effectively provide a multi-layered film to be applied to an automotive panel. Please note that the test of obviousness is not an express suggestion of the claimed invention in any or all references, but rather what the references taken collectively would suggest to those of ordinary skill in the art presumed to be familiar with them (*In re Rosselet*, 146 USPQ 183).

The applicant has argued against the Lahrmann reference stating the reference teaches of application of a primer of 20 microns and a second layer of filler material having a thickness of 35 microns. However, during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification" by giving words their plain meaning unless the specification provides a clear definition. See *In re Prater* 415 F.2d 1393 1404-05 162 USPQ 541 and *In re Zletz* 893 F.2d 319, 321, 13 USPQ2d 1320. Therefore, Kiriazis teaches of a support material (primer) with the first layer (filler) applied to the support material followed by a second layer (paint coat) and a transparent layer (Example 1). While the primer is attached to the metal sheet, the metal sheet is removed and the thermoplastic primer film becomes the support material. Therefore Lahrmann discloses applying, onto the support

material, a filler composition to a thickness of 35 microns, within the range as claimed, and a second coating thickness of 10 microns (Example 5). Lahrmann discloses applying a first coating thickness 3.5 times larger than the second thickness, which is within the range as claimed.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6132864 by Kiriazis et al ("Kiriazis") in view of US Patent 5425970 by Lahrmann et al ("Lahrmann") and further in view of U.S. Patent No 4810540 by Ellison et al ("Ellison").

Claims 1 and 3-9 are rejected for the same reasons as set forth in the office action dated 3/23/2005 and for the reasons set forth in section 2 above.

Claim 10: Kiriazis discloses a first layer (filler) composition includes a pigment and a second layer comprising pigmented paint (Column 2, lines 35-38, Column 1, lines 21-32).

Claim 11: Kiriazis teaches of a support material (primer) with the first layer (filler) applied to the support material followed by a second layer (paint coat) and a transparent

layer (Example 1). While the primer is attached to the metal sheet, the metal sheet is removed and the thermoplastic primer film becomes the support material. Therefore Kiriazis teaches of applying the support layer, first layer, second layer, and transparent top layer to the component (Example 1).

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Turocy whose telephone number is (571) 272-2940. The examiner can normally be reached on Monday-Friday 8:30-6:00, No 2nd Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Turocy  
AU 1762



TIMOTHY MEEKS  
SUPERVISORY PATENT EXAMINER